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April 1967

In competing with the Communist world, says Senator Fulbright,

We Must Not Fight Fire With Fire

By J. W. FULBRIGHT

UNDERLYING the controversy about the Central Intelligence Agency and its clandestine relationships with private organizations is a larger question about our basic philosophical stand as a nation. Do we, or do we not, subscribe to the great Kantian categorical imperative—of which Prof. Henry Steele Commager recently reminded the Foreign Relations Committee—"Never treat any human being as a means but always as an end," and "So conduct yourself that you might generalize your every action into a universal rule"?

These are ideal rules; few if any men can live up to them fully, but most Americans accept them as standards to which they aspire. They are implicit in our Constitution and in our traditions, both of which put limits on the use of power so as to protect certain rights of the individual. The essential purpose of our system—of federalism, checks and balances and the Bill of Rights—is not efficiency in the use of power but limitations on it, or, to put it another way, the acceptance of that degree of inefficiency in the conduct of government which is essential to protect the individual. At the core of the system is the belief that the human individual is an end, not a means; and that means, in order not to destroy the ends they serve, must be morally compatible with them. If we stand for anything in the world, it is this idea.

WITHIN the last generation our country has been moving away from these values. More and more, we have been treating political philosophy—more exactly, the defense of our own political philosophy and hostility to Communism—as an end in itself, to which, with increasing frequency, it is deemed necessary to subordinate the freedom and dignity of individual men. More and more, in fear of having an ideology in which power is wielded arbitrarily imposed upon us, we have been imposing a degree of arbitrary power upon ourselves, passively if uneasily accepting half-true explanations of necessity, emergency and defense, while the wielders of power reassure us with a perversion of Lord Acton's maxim, something to the effect of: "Power, it is true, corrupts, but I am incorruptible and can be trusted to wield power with voluntary benevolence and restraint."

I do not believe we have been undermining traditional values capriciously or because our leaders have become seized with the lust for power. The decisions which have led us in a direction away from rather than toward the fulfillment of our national values have been made, for the most part, by good and honest men. Good faith, however, is not the same thing as good judgment, and the fact that our policy-makers have not consciously sought to unbalance traditional constitutional relationships, and the traditional values that underlie them, does not mean that they have not, inadvertently, done so. The tremendous pressures imposed upon our policy-makers by the cold war, by the worldwide commitments of the United States and by the permanent, terrifying possibility of the destruction of our country by nuclear weapons have had a corrosive, undermining effect on the very values we are trying to defend.

In an environment of danger and anxiety ends have been confused with means. As Professor Commager said in his testimony before the Foreign Relations Committee: "The reason we are trying to win the contest with Communism is precisely because we want the triumph of the open mind, the triumph of freedom, the triumph of the unimpeded investigation of every scientific, every moral and philosophical question, and if we corrupt that process at the very outset, we may win the contest with Communism and lose the purposes for which we are contesting."

PRIOR to the Second World War—despite the use of spies in the Revolution, in the Civil War and in the First World War—our Government had never engaged in large-scale, organized secret intelligence activities. Being believers in popular government, we wanted no part of that sort of thing, and being relatively secure and isolated, we did not have to engage in the kind of intrigues which we associated with the Bad Old World of Europe.

World events and the growth of American power have altered this outlook. Implicit in our rejection of isolationism, however, is something more than an acknowledgment of altered circumstances. There seems also to be an assumption, rooted in a curious contempt for the past, that outmoded practices are bad practices and that changed circumstances are improved circumstances.

In more concrete terms, at some point in the process of acknowledging the necessity for world involvement, for huge military expenditures and far-flung intelligence activities, we

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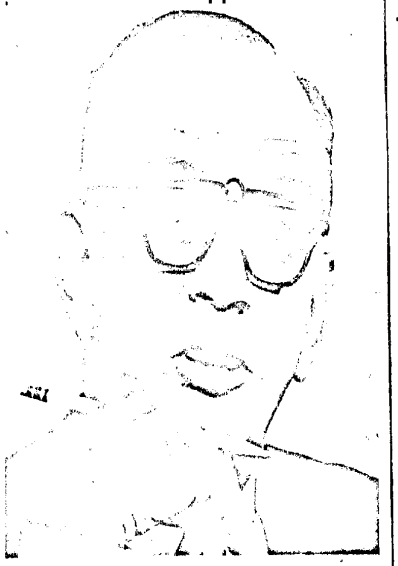

SENATOR FULBRIGHT—"The human individual is an end, not a means. If we stand for anything in the world, it is this idea."

seem also to have become persuaded that the taking on of these activities has been a positive good rather than a regrettable necessity. The result of this subtle but extremely significant extension of our attitude toward isolationism is that, in rejecting *practices* which have become outmoded, we have also gone far, without being very conscious of it, toward rejecting the *values* in which those practices were rooted.

Trying to make a virtue of necessity, we have come close to regarding our vast military establishment, our worldwide intelligence network and our deep involvement in the affairs of foreign nations as good things in themselves. The very word "isolationism"—or the more commonly heard "neo-isolationism"—has become, like "appeasement," a pejorative, a word that is used not to describe but to condemn a point of view.

It has become almost impossible, therefore, to introduce certain salient points into the current discussion, such as that American isolationism was a very wise policy in its time, that it has now become impractical but not necessarily undesirable and, most important of all, that being largely obsolete does not mean that it is entirely obsolete. Indeed, the term "isolationism," insofar as it connotes minding one's own business, still makes a good deal of sense in a good many places. Or, to make the point still another way, the fact that we cannot help being involved in some people's affairs does not mean that we ought to be involved in everybody's affairs.

A WHOLE new intellectual community has arisen in our country, dedicated to the development of an ever more sophisticated global strategy. These scholars have introduced new concepts such as "graduated deterrence," the "balance of terror," "acceptable levels of megadeaths," all measurable with a fine precision by the playing out of "war-game scenarios." It all sounds so fascinating, so modern, so antiseptic that it is easy to forget that what is being talked about, coldly and scientifically, is the prospect of the most hideous carnage in the history of the human race.

Implicit in much of the thinking of the strategic intellectuals is a rejection, indeed a contempt, for traditional values. Federalism, checks and balances and the primacy of domestic civilian pursuits, insofar as they are thought of at all, are thought of as quaint anachronisms. In an age of conflict, the conduct of conflict becomes an end in itself, its needs claiming primacy over the ends for which it was undertaken. Thus, $70-billion a year for weapons must have priority over a modest little "war" against poverty; the military obligation of the young must have priority over their education.

It is, I believe, this loss of interest in the traditional values of American democracy that has alienated so many of our younger generation. Still believing in Jeffersonian principles, they have sensed and are deeply offended by their elders' reversal of ends and means. Underlying their protest and dissent, even when it takes extravagant forms, is the belief in the individual as an end not a means. And as the gap between practice and traditional values widens, so does the gap between generations, generating in the young that terrible feeling of inability to make their ideas and convictions understood—a feeling which is not just an affliction of youth but of morallists of unbelieving age.

THE American people are not given to halfhearted undertakings. Whatever the undertaking, even if it is something we do not especially need, we want the biggest, the best and the most of it—and we usually succeed. So it was with industrial and agricultural development and the exuberance of our effort has made us the richest nation in the world. And so it has been with war: Starting as an "example" for the world, a nation which, in President Wilson's phrase, was "too proud to fight," we have become the foremost fighter of the 20th century, the architect of victory in two world wars, the inventor and thus far the only user of the atomic bomb, and we are now participating in our fourth major war of this century.

So also has it been with the craft of intelligence. Prior to the Second World War American intelligence was amateurish and inadequate. Now, in keeping with our tendency to throw ourselves into things with a certain extravagance, we have, with due respect to the Russians, what is probably the most powerful and extensive intelligence network in the world. So extensive have the secret operations of the C.I.A. become all over the world that in 1963 former President Truman, who had created the C.I.A. 16 years before, wrote: "For some time I have been disturbed by the way the C.I.A. has been diverted from its original assignment. It has become an operational and at times a policy-making arm of the Government. . . ."

The crucible in which this vast secret apparatus was formed was the cold war. Emerging from the greatest war in history with a total victory that we expected to be followed by a new, civilized world order under the aegis of the United Nations, we Americans were shocked and disillusioned by Stalinist Russia's betrayal of its wartime agreements, as a result of which we found ourselves plunged into a bitter new struggle characterized by penetration, subversion, ideological propaganda and externally supported civil war. We were, there is no doubt, cruelly betrayed.

We decided thereupon, as Allen Dulles once explained, to to "fight fire with fire." Through the Truman Doctrine, the Marshall Plan and the NATO treaty we saved Western and Southern Europe from

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what may or may not have been but was plausibly feared at the time to be a Stalinist design for the conquest of Europe. (These enlightened policies might accurately be characterized as fighting fire not with fire but with *water.)*

Beyond them, however, we mastered and practiced the techniques of the enemy. To a degree that is only just becoming known to the American people, we learned how to plant spies; we learned how to penetrate, subvert and overthrow foreign governments, and, most astonishing of all, we even developed a network of secret agents within our own society. As so often in the past, we have proved ourselves to be more than a match for an enemy in fighting him with his own weapons; we have indeed fought fire with fire and the flames have spread farther than anyone could have expected. And now the question must be asked: What is the difference between one kind of fire and another, between Communist fire and American fire?

All this was done under the authorization of two unprecedented pieces of legislation, the National Security Act of 1947, which created and defined, very broadly, the intelligence and "other functions" of the C.I.A., and the Central Intelligence Agency Act of 1949, which exempted the C.I.A. from the disclosure provisions regarding personnel which apply to other Government agencies and vested in the Director of Central Intelligence the power to spend money "without regard to the provisions of law and regulations relating to the expenditure of public funds."

So sweeping a grant of power is not in keeping with our traditions; one might even call it "un-American." The fact that it was enacted for the sole and express purpose of defending American traditions in the cold war does not alter the fact, as Thomas Jefferson noted in 1819, that "whatever power in any government is independent, is absolute also."

WHAT matters about the recent disclosures concerning the C.I.A., and its relations with private organizations such as the National Student Association, is not the individuals involved or their motivations about their "guilt or innocence," but the ideas and values involved and the standing of those ideas and values in present-day America.

The fair evaluation of any human act requires that due account be taken of the time and circumstances in which the act took place. I believe that if I had been a student leader in the late nineteen-forties or early fifties, and if an apparently important Government official had approached me confidentially and told me that I had a unique opportunity to perform a patriotic duty by accepting funds from a secret Government source in order to have something done that I thought needed to be done anyway, I would have found it difficult indeed to turn such a proposal down.

I would have found it difficult because in those early days of the cold war, when Russia was still ruled by Stalin, Communism seemed clearly to be an extremely menacing aggressive force, one which used student meetings as one of many instruments in a centrally directed design for conquest. I would also have found it difficult to turn the proposal down because of my confidence in the democratic purposes of my Government and, in addition, being inexperienced, I would hardly have felt qualified to challenge the view of an apparently important Government representative on a matter of national security. Only from the perspective of the mid-sixties, when Communism is no longer a centrally directed international conspiracy, and when, for good reason, we have learned to be skeptical about some of the things our Government says and does, does it seem clear that the leaders of the National Student Association would have been well-advised to refuse any association with the C.I.A.

It is more difficult to understand why succeeding leaders of the N.S.A. maintained the secret association through the fifties and into the sixties, and it is more difficult still to understand why labor unions, leading universities and supposedly philanthropic, tax-exempt foundations undertook extensive, secret functions on behalf of the Government. Certainly all of the private individuals and Government officials involved knew—or should have known—that what they were doing was inconsistent with democratic principles of free inquiry and representative government. The most plausible explanation is that those who infringed on these principles did so in the conviction that they were discharging a higher patriotic duty, that, in making *exceptions* to democratic procedure, they were helping to defend democracy.

This viewpoint is not without merit. There are times when it is necessary to violate principle for the sake of principle; it is done upon occasion in the Senate, by honest and principled men. The danger, of course, is that expediency, like alcohol and tobacco, easily becomes a habit.

That, I believe, is what happened in the case of the C.I.A. and its clandestine associates: Exceptional behavior became conventional behavior. The clear evidence of that transition's having been made is the apparent equanimity with which most Americans have accepted the recent disclosures. I have talked to a number of people in recent weeks who have said that they favor what the C.I.A. and its private affiliates have been doing, that these organizations, after all, have been fighting against Communism and that, therefore, they regret only that it has all been spoiled by public disclosure.

CONFLICT is a great leveler. The longer it goes on, the more undiscriminating people become in their choice of weapons; the more they find it necessary to set aside principle for the sake of principle; the more, therefore, antagonists come to resemble each other. It is for this reason that "fighting fire with fire" is not only bad morals but bad policy as well: It tends to undermine the very purpose for which it was undertaken. It has not yet, thank God, made us a police state, but it has brought us closer to it and, what is even more alarming, to greater public acceptance of certain practices associated with a police state — secret policy making, unchecked executive power, subversion of foreign Governments, bugging and spying and wiretapping against our own people—than we have ever been in our history. All this, let it be stated again, is being done for the express purpose of defending ourselves against an enemy who is our enemy precisely because he engages in all of these practices.

The problem could be easily resolved, at least in principle, if we could simply lay down a rule that the end never justifies the means, that our policy must always be open and honest and made in accordance with constitutional procedure. The trouble is that that is probably not possible; there are times of supreme emergency, involving matters which are literally matters of life and death—for example, the missile crisis of 1962—when the President must act decisively, immediately and secretly. We are compelled, therefore, to lay down a qualified rule, a rule to the effect that the end almost never justifies the means, that our policy must almost always be open and honest and made in accordance with constitutional procedure.

Such a rule leaves room for human judgment and, with it, for human error. That is unfortunate but it need not be fatal. The American constitutional system has never functioned automatically; it has always depended for its successful functioning on a degree of voluntary restraint on the part of each of the three branches of Government in the exercise of their respective powers.

THE principal significance of the C.I.A. disclosures is the indication of a lack of restraint on the part of the executive in the conduct of foreign relations and the passive acceptance of unchecked executive power by the Congress and a large portion, probably a majority, of the public. If we

66We have proved ourselves more than a match for an enemy in fighting him with his own weapons —and the flames have spread farther than anyone could have expected.99

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are to restore that restraint in the exercise of power without which our constitutional system cannot function, we must begin by a candid recognition of the extent to which we have resorted to expediency in our rivalry with the Communist countries.

The association between the C.I.A. and the National Student Association was a clear case of cold-war expediency. It was obvious by the late nineteen-forties that the Russians were using international student meetings and youth festivals as occasions for cold-war propaganda and for efforts to influence the uncommitted. It was obviously desirable, and it remains desirable, for American students to participate in such meetings in order to make a case for—but even more important, to set an example of—freedom of thought and expression.

But while American participation in international student meetings is desirable, it is not essential. I may be missing something somewhere but I have the very strong feeling that international youth congresses and festivals are not nearly as important as the N.S.A. and its C.I.A. benefactor have thought. Since it has always been unlikely that either Russian Communists or American democrats could convert the other, presumably the importance of these meetings has been the opportunity which they offered to sway the minds of the uncommitted. It seems to me that the minds of the uncommitted would have had to be fairly feeble to be permanently won over to one ideology or the other by flattery, oratory and hoopla in the course of a youth congress.

The thought presents itself that the people the young Soviet and American activists were flattering were themselves. I have the further strong feeling that the kind of student exchange that has real significance, the kind that deeply and permanently influences the minds of the young, is the kind that brings students to a foreign country for a year or more of study, the kind that takes place in classrooms and libraries and international living centers, the kind that very seldom makes the news.

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Even if it be granted, however, that there is real value in the participation of young Americans in international student meetings, by no stretch of the imagination can these be regarded as the kind of life-and-death matter which might, on rare occasion, justify the circumvention of democratic procedure. And yet that is exactly what the C.I.A., with the full approval of its political superiors, did. By secretly financing the international operations of the N.S.A., it usurped the constitutional authority of the Congress to authorize and appropriate public funds—the spirit, that is, if not exactly the letter of that constitutional authority, in light of the extraordinary financial powers given to the C.I.A. by the Central Intelligence Agency Act of 1949.

THE C.I.A. affair is only the most recent manifestation in a long-term trend toward executive predominance in foreign policy. The source of this trend is crisis. In the past 25 years American foreign policy has encountered a shattering series of crises and inevitably, or almost inevitably, the effort to cope with these has been executive effort, while the Congress, inspired by patriotism, importuned by Presidents and deterred by lack of information, has tended to fall in line behind the executive. The result has been an unhinging of traditional constitutional relationships; the Senate's constitutional powers of advice and consent have atrophied into what is widely regarded as, though never asserted to be, a duty to give prompt consent with a minimum of advice.

It is worth recalling a few of the landmarks along the road to virtually unchecked executive predominance in foreign policy:

In 1940, President Roosevelt made his destroyer deal with Great Britain by executive agreement even though it was a commitment of great consequence and a clear violation of the international law of neutrality, so much so that Sir Winston Churchill later wrote that it had given Germany the legal right to declare war on the United States. It was, however, an emergency and Congress did not protest.

In 1950, President Truman committed the United States to war in Korea without the authority of Congress. The war was said to be a United Nations police action and therefore not a war in the [illegible] was contended that, because the police action was limited, a declaration of war would be awkward, possibly leading to the expansion of the conflict, and finally, it was contended that the President had the power to take the country into war under his authority as Commander in Chief and under the inherent authority of the Presidency. Finding these arguments persuasive, the Congress did not protest until the war settled into a stalemate and the opposition party saw the opportunity to make an election issue of it.

In recent years, Congress has exercised no more than a ceremonial role in decisions to commit American armed forces overseas. This role has consisted in the adoption of sweeping resolutions, perfunctorily debated and hastily enacted under conditions of extreme urgency, under circumstances in which any extended debate or deliberation would have been considered a sign of domestic dissension in the face of a foreign enemy and, therefore, unpatriotic. The resolutions concerning Taiwan, the Middle East and the Gulf of Tonkin were submitted to the Congress for the purpose of avoiding internal controversy of the kind President Truman encountered over the Korean war—that is to say, for the executive's convenience and not because any of the Presidents concerned regarded himself as lacking the authority to commit American forces abroad. In adopting each of these resolutions, Congress abdicated its constitutional authority over the decision to declare war.

It is argued by certain political scientists that the authority of Congress to declare war has become obsolete in the nuclear age and has passed into the hands of the executive. But this should not alarm us unduly, they say, because the check and balance formerly provided by the Congress are now provided by diversities within the executive branch.

"This," in the words of the distinguished historian Ruhl J. Bartlett, "is an argument scarcely worthy of small boys, for the issue is not one of advice or influence. It is a question of power, the authority to say that something shall or shall not be done. If the President is restrained only by those whom he appoints and who hold their positions at his pleasure, there is no check at all. What has happened to all intents and purposes, although not in form and words, is the assumption by all recent Presidents that their constitutional right to conduct foreign relations and to advise the Congress with respect to foreign policy shall be interpreted as the right to control foreign relations."

HOW can the constitutional imbalance be redressed? I strongly believe that the Congress should undertake to revive and strengthen the deliberative function which it has permitted to atrophy in the course of 25 years of crisis. Acting on the premise that dissent is not disloyalty, that a true consensus is shaped by airing differences rather than by suppressing them, the Senate should again become, as it used to be, an institution in which the great issues of American politics are contested with thoroughness, energy and candor. Nor should the Senate allow itself to be too easily swayed by executive pleas for urgency and unanimity, or by allegations of "aid and comfort" to the enemies of the United States made by officials whose concern with such matters may have something to do with a distaste for criticism directed at themselves.

It is sometimes useful and occasionally necessary for Congress to express prompt and emphatic support for the President on some matter of foreign relations. It seems to me, however, that we have gone too far in this respect, to the point of confusing Presidential convenience with the national interest. It is perfectly natural for the President, pressed as he is to make decisions and take action in foreign relations, to overemphasize the desirability of promptness and unanimity. But the Senate has its own responsibilities, and however strongly feelings of patriotism may incline it to comply with the President's wishes, a higher patriotism requires it to fulfill its constitutional obligation.

As part of a broader effort to redress the constitutional imbalance in foreign policy the C.I.A. should be brought under effective Congressional oversight. The technical means by which this is accomplished is not of critical importance. What is wanted is the will and determination of Congress to place checks on the power of the intelligence establishment and to make it truly accountable.

The dilemma posed by the

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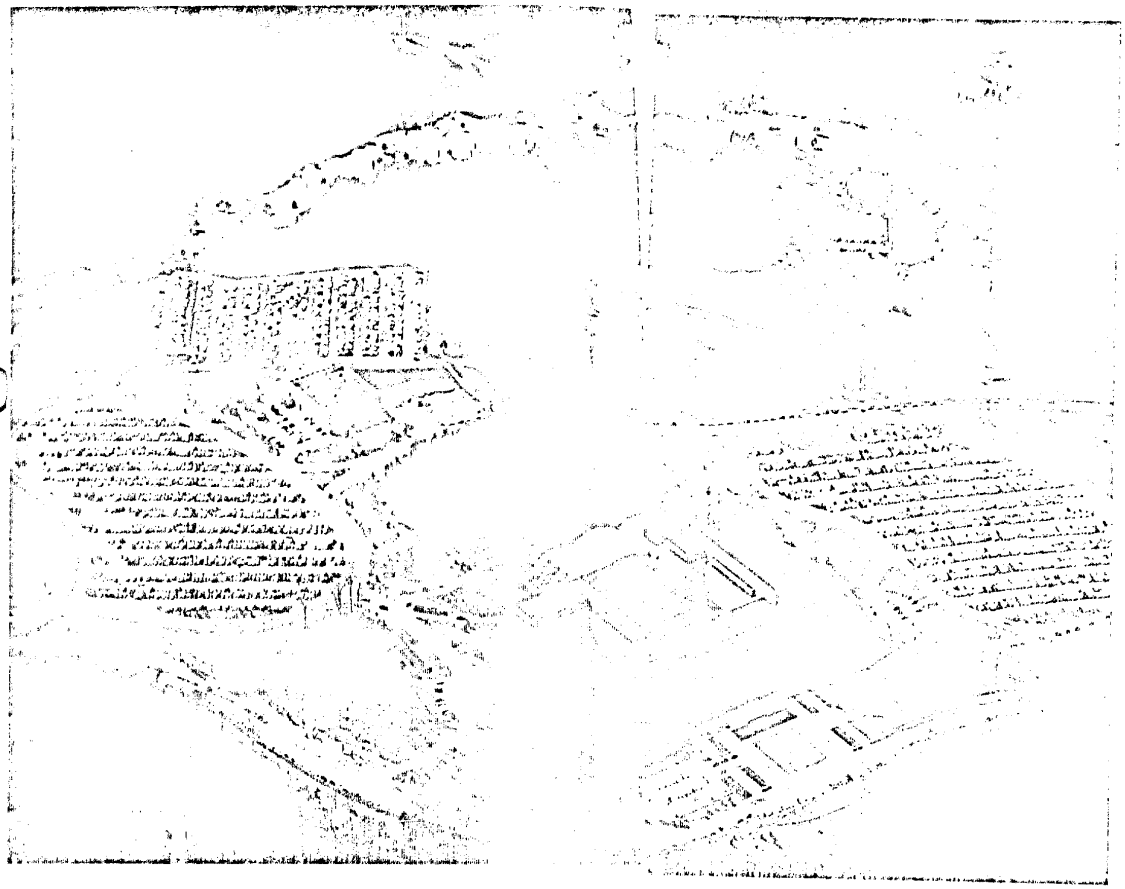
activities in a world of armed powers, these activities can never wholly be reconciled with the values of our free society. Under the pressures of the cold war we have gone far indeed toward permitting the intelligence agency, and the executive in general, to exercise unrestrained powers over our foreign relations and, to an alarming degree, over important areas of our domestic life as well. So far has this trend advanced that the values of our society are now endangered by the means invented for their defense. That is the core of our dilemma: As long as we adhere to these values—and particularly to the Kantian imperative that a man must always be treated as an end and not as a means—we cannot give ourselves over to the fighting of "fire with fire" without jeopardizing the very values we are resolved to defend.

Whatever we do to try to resolve this dilemma, whatever we do to defend our national values, we ought never to forget that the foremost safeguard of these values is the American Constitution. It can be changed, when it is found wanting, by the means designated in the Constitution itself. But, in the words of Washington's great address: "Let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed." ■



UNDER FIRE—C.I.A. headquarters in Langley, Va. Before World War II, the U. S. had never engaged in such activities. Now we have probably the world's most powerful intelligence network."

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